

ESTTA Tracking number: **ESTTA609036**

Filing date: **06/10/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Varsity Spirit Corporation
Granted to Date of previous extension	06/11/2014
Address	6745 Lenox Center Court Suite 500 Memphis, TN 38115 UNITED STATES
Attorney information	Arlana S. Cohen Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES asc@cll.com, rje@cll.com, trademark@cll.com, jaj@cll.com Phone:212-790-9200

Applicant Information

Application No	86037897	Publication date	02/11/2014
Opposition Filing Date	06/10/2014	Opposition Period Ends	06/11/2014
Applicant	Legacy Media Group, LLC 1817 Miller Rd. Imperial, MO 63052 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2013/06/24 First Use In Commerce: 2013/07/10 All goods and services in the class are opposed, namely: Publication of magazines

Grounds for Opposition

Other	see attached pleading
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Attachments	Notice of Opposition - GATEWAY VARSITY SPORTS.pdf(1501777 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Arlana S. Cohen/
Name	Arlana S. Cohen
Date	06/10/2014

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X)	
VARSITY SPIRIT CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
LEGACY MEDIA GROUP, LLC)	
)	
Applicant.)	
-----X		

NOTICE OF OPPOSITION

In the matter of trademark application Serial No. 86/037,897, filed August 14, 2013 and published for opposition in the Official Gazette of February 11, 2014:

Varsity Spirit Corporation, Inc., a Tennessee corporation, having a business address at 6745 Lenox Center Court, Memphis, TN 38115 (“Opposer”), believes it will be damaged and hereby opposes the registration of said trademark. The grounds for opposition are as follows:

1. Applicant, Legacy Media Group, LLC (“Applicant”) seeks to register “GATEWAY VARSITY SPORTS” (& Design) as a service mark for use with respect to “Publication of magazines” in Class 41 (hereinafter referred to as “Applicant’s Mark”), based on Applicant’s alleged use in commerce since July 2013.

2. Opposer, together with its subsidiaries and related companies all of whom are in direct privity with one another will hereinafter be referred to individually and collectively as the “Varsity Companies”), are, and have for many years, been engaged in the business of, *inter alia*, offering goods and services directed to students at all levels and all ages, including various media services using its trademark and trade name “Varsity” (“Opposer’s Trade Name”).

3. Opposer and/or their predecessors and Licensees has used, since at least as early as 1939, and continue to use in commerce, many valuable trademarks, including, without limitation, the mark “VARSITY” for, *inter alia*, services, products and services primarily directed at high school and college students notably, (“Opposer’s Common Law Rights”).

4. The Varsity Companies are the owners of the following trademark and service mark registrations in the United States without limitation:

MARK	REG. NO.	REG. DATE	GOODS/SERVICES
VARSITY	3,436,493	5/27/08	Online retail store services featuring, pre-recorded videotapes and compact discs, school supplies, jewelry, home furnishing; providing a website which features advertisements for the goods and services of others on topics of interest to teenage boys and girls on a global computer network; travel agency services, namely, making reservations; providing an online database in the field of topics of interest to teenage boys and girls, namely fashion.
VARSITY.COM	3,689,696	9/29/09	Camps, namely, children’s recreational camps, cheerleading camps, and soccer camps
VARSITY TV	3,920,302	11/24/08	An interactive website featuring entertainment information and cheerleading videos for students and teens; online social networking services for students and teen
VARSITY CHOREOGRAPHY	3,320,692	10/23/07	Providing educational and instructional courses in the fields of spirit, cheer and dance delivered both online and through the classroom
VARSITY UNIVERSITY	3,797,635	06/01/10	Providing educational and instructional courses in the fields of cheerleading routines, stunts, sequences, skills and drills, choreography and dance technique, and safety information to participants in the spirit, cheer, and dance team industries delivered both online and through the classroom.

MARK	REG. NO.	REG. DATE	GOODS/SERVICES
Varsity	3,696,209	10/13/09	Pre-recorded videotapes and compact discs containing music and/or movies; camps, namely, children's recreational camps, cheerleading camps, and soccer camps
Varsity.COM	3,418,764	4/29/08	Online retail store services featuring pre-recorded videotapes and compact discs, school supplies, jewelry and home furnishings; providing a website which features advertisements for the goods and services of others on topics of interest to teenage boys and girls on a global computer network; travel agency services, namely, making reservations; and providing an online database in the field of topics of interest to teenage boys and girls, namely, fashion.
Varsity	2,526,564	1/08/02	Athletic shirts, athletic shorts, athletic tops, body suits, dresses, hats, jackets, jerseys, jumpers, leotards, pants, skirts, sweaters, sweat pants, sweat shirts, T-shirts, unitards, and warm-up suits sold to colleges, high schools and school-affiliated teams, clubs, groups and individuals by direct sales through sales representatives or employees of applicant, through mail order catalog services or through campus book stores or other retail outlets located at colleges and high schools; uniforms for cheerleaders, drill teams, pompon squads, pep squads, mascots, bands and booster clubs
JUNIOR Varsity Spirit Fashions	1,575,830	1/02/90	Mail order catalog services in the field of cheerleader uniforms for younger age groups
Varsity Spirit Fashions	1,680,452	3/24/92	Men's and women's cheerleader and dance team clothing; namely, skirts, sweats, sweaters, tops, pants, shoes
Varsity Spirit Corporation	1,796,645	10/05/93	Conducting cheerleading, dance teams and gymnastics training camps, clinics, seminars, workshops, competitions, championships and tournaments; per-

MARK	REG. NO.	REG. DATE	GOODS/SERVICES
			forming cheerleading at bowl games; private gymnastics, cheerleader and dance team coaching; clothing; namely, cheerleader and dance team uniforms with pom-poms, gloves, vests, tops, shirts, skirts, jumpers, warm-up suits, pants, sweaters, shoes, socks, sweatshirts, T-shirts, shorts, sweat pants, tights, leotards, unitards, dresses and jackets
VARSITY SPORT	2,293,083	11/16/99	Athletic wear, namely, sports shirts, sports shorts, gloves, vests, tops, skirts, jumpers, warm-up suits, pants, sweaters, athletic shoes, sweatshirts, T-shirts, athletic shorts, sweat-pants, tights, leotards, unitards, dresses, and jackets
V VARSITY	2,357,303	6/13/00	Cheerleader uniforms, drill team uniforms and pompon squad uniforms
VARSITY	1,812,198	12/21/93	Men's and women's sleepwear, underwear, night shirts, loungewear and boxer shorts
VARSITY (Block letters)	3,928,856	3/08/11	Footwear, namely, cheerleader shoes, dance shoes, slippers, flip-flops and sandals; athletic shoes
VARSITY (Stylized)	879,543	10/28/69	Pajama and robe sets
VARSITY SPORT	2,293,083	11/16/99	Athletic wear, namely, sports shirts, sports shorts, gloves, vests, tops, skirts, jumpers, warm-up suits, pants, sweaters, athletic shoes, sweatshirts, T-shirts, athletic shorts, sweat-pants, tights, leotards, unitards, dresses, and jackets
JUNIOR VARSITY SPIRIT FASHIONS	1,575,830	1/02/90	Mail order catalog services in the field of cheerleader uniforms for younger age groups
VARSITY SPIRIT FASHIONS	1,680,452	3/24/92	Men's and women's cheerleader and dance team clothing; namely, skirts, sweats, sweaters, tops, pants, shoes
VARSITY SPIRIT CORPORATION	1,796,645	10/05/93	Conducting cheerleading, dance teams and gymnastics training camps, clinics, seminars, workshops, competitions, championships and tournaments; per-

MARK	REG. NO.	REG. DATE	GOODS/SERVICES
			forming cheerleading at bowl games; private gymnastics, cheerleader and dance team coaching; clothing; namely, cheerleader and dance team uniforms with pom-poms, gloves, vests, tops, shirts, skirts, jumpers, warm-up suits, pants, sweaters, shoes, socks, sweatshirts, T-shirts, shorts, sweat pants, tights, leotards, unitards, dresses and jackets
V VARSITY VARSITY	2,357,303	6/13/00	Cheerleader uniforms, drill team uniforms and pompon squad uniforms
VARSITY	2,082,554	7/22/97	Mens underwear; T-shirts, briefs; athletic shirts; undergarments; pajamas; robes; nightshirts; loungewear and boxer shorts sold through retail outlets.
VARSITY	1,812,198	12/21/93	Men's and women's sleepwear, underwear, night shirts, loungewear and boxer shorts
VARSITY (Stylized)	879,543	10/28/69	Pajama and robe sets

Opposer's Trade Name, Common Law Rights, and trademark/service mark registrations are referred to hereinafter as the "VARSITY Family of Marks."

5. By virtue of extensive use in commerce of their VARSITY Family of Marks in the United States, the relevant trade and public have come to associate goods and services bearing the VARSITY Family of Marks with Opposer.

6. The applied-for services of Applicant and the goods and services of Opposer are identical and/or substantially similar and related.

7. Applicant's Mark, as applied to the services set forth in the application herein opposed, is identical to and/or resembles Opposer's VARSITY Family of Marks as applied to their goods and services that it is likely to cause confusion, mistake and/or deception.

8. If Applicant is permitted to register Applicant's Mark for the services set forth in the application, confusion of the trade and/or public is likely to result, such confusion resulting in damage and injury to Opposer. Any persons familiar with Opposer and/or the goods and services of Opposer would be likely to believe that Applicant's services are sponsored by or offered under license from or otherwise affiliated with Opposer. Furthermore, any objection to or fault found with Applicant's services offered under, or goods sold in connection with, Applicant's Mark would necessarily reflect on and seriously injure the reputation that Opposer has established for their goods sold and services offered under their VARSITY Family of Marks.

9. Consumers and potential consumers, on seeing Applicant's Mark used in connection with its services are likely to believe, in error, that such services, are offered in association or affiliation with or under license from Opposer.

10. If Applicant were granted a registration for Applicant's Mark, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that registration of the mark set forth in application Serial No. 86/037,897 be refused and that this opposition be sustained.

The filing fee of \$300.00 is enclosed herewith and any additional fees or deficiencies

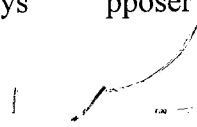
deemed to be due and owing in connection with this opposition may be charged to Deposit
Account No. 03-3415 and any overpayment may be credited thereto.

Dated: New York, New York
June 10, 2014

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys pposer


By:


Arlan S. Cohen
1133 Avenue of the Americas
New York, New York 10036-6799
(212) 790-9237

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **NOTICE OF OPPOSITION** was served by United States Mail, First Class, by depositing it, postage prepaid, in a depository under the exclusive custody and control of the United States Postal Service, on June 10, 2014 addressed to:

Geoffrey E. Bruce
Legacy Media Group, LLC
1817 Miller Rd
Imperial, Missouri 63052-3008
Email: gebruce21@gmail.com



Jean A Jense